

108TH CONGRESS
1ST SESSION

H. R. 2224

To provide for the payment of claims of United States prisoners of war
in the First Gulf War, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2003

Mrs. CAPITO (for herself, Mr. GOODE, and Mr. CAMP) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the payment of claims of United States prisoners of war in the First Gulf War, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prisoner of War Pro-
5 tection Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) The mistreatment of prisoners of war of the
2 United States has been a serious recurring problem
3 in war after war, and is of immediate concern to the
4 Nation.

5 (2) The United States takes great pride in the
6 protection of its service men and women, and finds
7 intolerable the recurring pattern of mistreatment of
8 its prisoners of war.

9 (3) The Third Geneva Convention mandates
10 that prisoners of war must at all times be treated
11 humanely, and that the willful killing, torture, or in-
12 human treatment or willfully causing great suffering
13 or serious injury to body or health are “grave
14 breaches” of the Convention.

15 (4) Article 129 of the Third Geneva Convention
16 mandates that “Each High Contracting Party shall
17 be under the obligation to search for persons alleged
18 to have committed, or to have ordered to be com-
19 mitted . . . grave breaches, and shall bring such per-
20 sons, regardless of their nationality, before its own
21 courts.”.

22 (5) Article 131 of the Third Geneva Convention
23 provides that “No High Contracting Party shall be
24 allowed to absolve itself or any other High Con-
25 tracting Party of any liability incurred by itself or

1 by another High Contracting Party in respect of
2 [grave] breaches . . .”.

3 (6) Both the United States and the Republic of
4 Iraq are High Contracting Parties to the Third Ge-
5 neva Convention, and more than 170 countries, as
6 state parties to the convention, have assumed its ob-
7 ligations.

8 (7) The Third Geneva Convention mandates
9 that prisoners of war “must at all times be protected
10 . . . against insults and public curiosity”; the Iraqi
11 practice in both the First and Second Gulf Wars of
12 subjecting United States prisoners of war to coerced
13 propaganda videotapes is therefore a violation of the
14 Convention.

15 (8) During the First Gulf War, the House of
16 Representatives, in response to the propaganda vid-
17 eotapes, passed House Concurrent Resolution 48 on
18 January 23, 1991, by a vote of 418–0, condemning
19 “the flagrant and deliberate violations” by Iraq re-
20 sulting in the brutal torture and inhumane treat-
21 ment of United States prisoners of war during that
22 war, and the Senate, also in response to the patent
23 abuse of the prisoners of war, passed Senate Con-
24 current Resolution 5 on January 24, 1991, by a vote
25 of 99–0, demanding that “Iraq abide by the prin-

1 principles and the obligations of the Third Geneva Con-
2 vention concerning the treatment of prisoners of war
3” and condemning Iraq’s failure to do so; sub-
4 sequently, Iraq ignored these resolutions of the Con-
5 gress and continued to brutally mistreat United
6 States prisoners of war.

7 (9) Seventeen United States prisoners of war
8 from the First Gulf War and 37 of their family
9 members have brought an historic action in the
10 United States District Court for the District of Co-
11 lumbia against the Republic of Iraq, the Iraqi Intel-
12 ligence Service, and Saddam Hussein in his capacity
13 as President of the Republic of Iraq, for the brutal
14 torture of the prisoners of war while held by Iraq
15 during the First Gulf War. In this action—

16 (A) an entry of default was entered against
17 defendants on September 25, 2002; and

18 (B) the factual and legal submissions for a
19 judgment by the court, including detailed sworn
20 affidavits as to Iraq’s brutal torture, were sub-
21 mitted to the court on March 31, 2003.

22 Those sworn affidavits show shocking brutality di-
23 rected against the United States prisoners of war by
24 Iraq.

1 (10) The Congress determined, in enacting sec-
2 tion 1605(a)(7) of title 28, United States Code, per-
3 mitting suit against terrorist states for personal in-
4 jury or death caused by an act of torture, which was
5 the legal basis for this historic action against Iraq
6 by the tortured United States prisoners of war, that
7 substantial civil damages are an important addi-
8 tional deterrent against such acts of torture directed
9 against nationals of the United States.

10 (11) The Republic of Iraq and its agencies, in-
11 strumentalities, and controlled entities had approxi-
12 mately \$1,730,000,000 in blocked assets in the
13 United States at the start of the Second Gulf War.

14 (12) Those assets were vested by the Executive
15 Order 13290 of March 20, 2003, for the purpose of
16 assisting in the reconstruction of Iraq.

17 (13) Approximately \$300,000,000 of the
18 blocked assets were initially set aside for the satis-
19 faction of civil judgments obtained by United States
20 hostages held in Iraq during the First Gulf War, but
21 no amount of the blocked assets was set aside for
22 those plaintiffs who were United States prisoners of
23 war and who, at that time, already had an entry of
24 default against Iraq.

1 (14) The plaintiffs in the historic case against
2 Saddam Hussein and Iraq who were United States
3 prisoners of war have established a nonprofit Foun-
4 dation for the assistance of United States and Allied
5 prisoners of war and those missing in action and
6 their families, and have pledged to the court that a
7 substantial amount of any noncompensatory dam-
8 ages realized from the case will be donated to the
9 new Foundation.

10 (15) The Republic of Iraq has great national
11 wealth, with proven oil reserves of at least
12 110,000,000,000 barrels, second only to Saudi Ara-
13 bia, and 3 times those of the United States, and
14 when its reserves are fully developed they may even
15 exceed those of Saudi Arabia.

16 (16) Other nations have not absolved Iraq of its
17 state obligations under the Third Geneva Convention
18 arising from the First Gulf War and other sources,
19 and the torture and inhuman treatment of United
20 States prisoners of war during the First Gulf War
21 are, in any event, a “non-absolvable liability” of the
22 state of Iraq.

23 (17) Iraq has not accounted for one of the
24 United States prisoners of war held by Iraq during
25 the First Gulf War.

1 (18) In the Second Gulf War, Iraq is in viola-
2 tion of the Third Geneva Convention by subjecting
3 United States prisoners of war to coerced propa-
4 ganda videotapes, and there are disturbing reports
5 of the willful killing and mistreatment of United
6 States prisoners of war by Iraq, violations con-
7 demned in Senate Concurrent Resolution 31, which
8 passed on April 9, 2003, by a vote of 99–0, and in
9 House Concurrent Resolution 118, which passed on
10 March 27, 2003, by a vote of 419–0.

11 (19) The United States has a critical national
12 interest in ensuring the protection of United States
13 prisoners of war, enhancing compliance with the
14 Third Geneva Convention, and in taking immediate
15 decisive action that could contribute to the protec-
16 tion of United States prisoners of war.

17 **SEC. 3. POLICY REGARDING PERSONS.**

18 (a) POLICY.—It is the policy of the United States,
19 in accordance with article 129 of the Third Geneva Con-
20 vention, to search out and try before its courts persons
21 alleged to have committed, or to have ordered to be com-
22 mitted, grave breaches of the Third Geneva Convention
23 against United States prisoners of war, including willful
24 killing, torture, and inhumane treatment.

1 (b) IMPLEMENTATION.—The United States will vig-
2 orously implement the policy set forth in subsection (a)
3 toward those persons who have mistreated United States
4 prisoners of war during the First and Second Gulf Wars,
5 including those in the Iraqi Government who have ordered
6 or carried out any such mistreatment.

7 **SEC. 4. POLICIES REGARDING COUNTRIES.**

8 (a) POLICY.—It is the policy of the United States,
9 in accordance with article 131 of the Third Geneva Con-
10 vention, to hold liable countries that commit grave
11 breaches against United States prisoners of war, including
12 willful killing, torture, and inhumane treatment. As a
13 High Contracting Party to the Third Geneva Convention,
14 the United States will not absolve such states of any such
15 liability.

16 (b) PAYMENT OF CLAIMS.—In carrying out the policy
17 set forth in subsection (a), the Secretary of the Treasury,
18 at the request of the plaintiffs, shall pay from the Treas-
19 ury, in full, but in an amount not exceeding the sum of
20 those blocked funds of Iraq and its agencies, instrumental-
21 ities, and controlled entities that were vested by Executive
22 Order 13290 of March 20, 2003, for the purpose of assist-
23 ing in the reconstruction of Iraq, any judgment in Civil
24 Action No. 02–0632 in the United States District Court
25 for the District of Columbia brought by United States

1 prisoners of war and their family members against the Re-
2 public of Iraq, the Iraqi Intelligence Service, and Saddam
3 Hussein in his capacity as President of the Republic of
4 Iraq, for the brutal torture of those United States pris-
5 oners of war during the First Gulf War. The United
6 States shall be fully subrogated against the Republic of
7 Iraq for payments made under this subsection.

8 **SEC. 5. POLICY WITH RESPECT TO PRISONERS OF WAR IN**
9 **SECOND GULF WAR.**

10 If, following the Second Gulf War, it becomes evident
11 that United States prisoners of war have been killed, tor-
12 tured, or mistreated during that war, or that the unac-
13 counted for United States prisoner of war from the First
14 Gulf War was killed or tortured by Iraq, it shall be the
15 policy of the United States to support the claims of those
16 United States prisoners of war and their immediate family
17 members against the Republic of Iraq, for resolution on
18 the basis of the same policy as is set forth in section 4.

19 **SEC. 6. DEFINITION.**

20 In this Act, the term “Third Geneva Convention”
21 means the Geneva Convention of 1949 relative to the
22 Treatment of Prisoners of War.

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